



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2008-0312]

Parts and Accessories Necessary for Safe Operation; Exemption Renewal for DriveCam, Inc.

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemption; request for comments.

SUMMARY: FMCSA renews DriveCam, Inc.'s (DriveCam) exemption which allows the placement of video event recorders at the top of the windshields on commercial motor vehicles (CMVs). Motor carriers may continue to use the video event recorders mounted in the windshield area to increase safety through (1) identification and remediation of risky driving behaviors such as distracted driving and drowsiness; (2) enhanced monitoring of passenger behavior for CMVs in passenger service; and (3) enhanced collision review and analysis. The Agency has concluded that granting this exemption renewal will maintain a level of safety that is equivalent to or greater than the level of safety achieved without the exemption. However, the Agency requests comments and information on the exemption, especially from anyone who believes this standard will not be maintained.

DATES: This decision is effective April 16, 2013. Comments must be received on or before [Insert 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) number FMCSA-2012-XXXX by any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- Mail: Docket Management Facility, U.S. Department of Transportation, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001.
- Hand Delivery: Ground Floor, Room W12-140, DOT Building, 1200 New Jersey Avenue, SE. Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.
- Fax: 1-202-493-2251.

Instructions: Each submission must include the Agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the exemption process, see the “Public Participation” heading below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the “Privacy Act” heading for further information.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to Room W12-140, DOT Building, New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgement that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union,

etc.). You may review DOT's complete Privacy Act Statement for the FDMS published in the Federal Register published on December 29, 2010 (73 FR 82132) or you may visit <http://www.gpo.gov/fdsys/pkg/FR-2010-12-29/pdf/2010-32876.pdf>.

FOR FURTHER INFORMATION CONTACT: Mr. Brian J. Routhier, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, MC-PSV, (202) 366-1225; Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315(b)(1), FMCSA may renew an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds “such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.” DriveCam has requested a two year extension of the current exemption from 49 CFR 393.60(e)(1). The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Basis for Renewing Exemption

DriveCam applied for an exemption from 49 CFR 393.60(e)(1) to allow the use of video event recorders on all CMVs. On April 15, 2009, FMCSA published a notice of final disposition granting the exemption (74 FR 17549). On April 18, 2011, FMCSA published a notice of final disposition renewing this exemption until April 16, 2013. The renewal outlined in this notice extends the exemption through April 16, 2015, and requests public comment.

FMCSA is not aware of any evidence showing that the installation of video event recorders on CMVs, in accordance with the conditions of the original exemption, has resulted in any degradation in safety. FMCSA continues to believe that the potential safety gains from the use of video event recorders to improve driver behavior will improve the overall level of safety to the motoring public.

The exemption is renewed subject to the requirements that video event recorders installed in commercial motor vehicles be mounted not more than 5mm (2 inches) below the upper edge of the area swept by the windshield wipers, and located outside the driver's sight lines to the road and highway signs and signals. The exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) motor carriers and/or commercial motor vehicles fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

The Agency believes that extending the exemption for another two years will likely achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption because (1) based on the technical information available, there is no indication that the video event recorders obstruct drivers' views of the roadway, highway signs and surrounding traffic; (2) trucks and buses generally have an elevated seating position which greatly improves the forward visual field of the driver, and any impairment of available sight lines is minimal; and (3) the location within the top two inches of the area swept by the windshield wiper and out of the driver's normal sightline is reasonable and enforceable at roadside. In addition, the Agency believes that the use

of video event recorders by fleets to deter unsafe driving behavior is likely to improve the overall level of safety to the motoring public.

Without the exemption, FMCSA and the motor carrier industry would be unable to continue to test this innovative safety management control system.

Request for Comments

FMCSA requests comments from parties with data concerning the safety record of CMVs equipped with video event recorders by [Insert date 30 days from the date of publication in the FEDERAL REGISTER]. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the DriveCam exemption.

Issued on: March 18, 2013

Anne S. Ferro
Administrator

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